

JUVENILE ADMISSION

[If the hearing is closed, the Justice for All Act, 18 U.S.C. § 3771(a) (notice to victims), does not apply. Otherwise, ask the prosecutor if she/he has provided reasonable, accurate and timely notice of the proceeding to any victim(s) of the offense as required by the Act.]

1. (A) EXPLAIN PURPOSE OF HEARING AND QUESTIONS.
 (B) IF YOU DON'T UNDERSTAND A QUESTION I ASK YOU, DON'T TRY TO
 ANSWER. TELL ME YOU DON'T UNDERSTAND AND I'LL REWORD IT.
 (C) ANY TIME YOU WANT TO TALK TO YOUR LAWYER, DON'T ANSWER MY
 QUESTION—TELL ME YOU WANT TO TALK TO YOUR LAWYER AND I'LL
 LET YOU DO SO.
2. DO YOU UNDERSTAND THAT YOU HAVE A RIGHT TO A LAWYER AND THAT IF
 YOU CANNOT AFFORD A LAWYER, YOU HAVE A RIGHT TO HAVE A LAWYER
 APPOINTED FOR YOU AT GOVERNMENT EXPENSE?
3. DO YOU UNDERSTAND THAT YOU HAVE A RIGHT TO REMAIN SILENT, AND
 THAT ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU?
4. ARE YOU _____, THE PERSON NAMED AS A JUVENILE
 DELINQUENT IN THIS INFORMATION?
5. HOW OLD ARE YOU?
6. HOW FAR DID YOU GO IN SCHOOL?
7. HAVE YOU RECENTLY BEEN SEEING ANY DOCTOR OR PSYCHIATRIST?

8. ARE YOU CURRENTLY TAKING ANY MEDICATION?
9. HAVE YOU USED ANY DRUG, PILL OR ALCOHOL IN THE LAST 24 HOURS?
10. **[Inquire of both lawyers whether in their dealings with the juvenile there is any cause for concern about his/her competence.]**
11. DO YOU FEEL YOU UNDERSTAND WHAT IS HAPPENING IN THESE PROCEEDINGS?
12. **[Make competence finding]**
13. HAS YOUR LAWYER EXPLAINED TO YOU THE CONSEQUENCES THAT MAY FLOW FROM THESE PROCEEDINGS?
14. DO YOU AUTHORIZE _____**[lawyer]** TO SPEAK ON YOUR BEHALF?
15. DID YOU RECEIVE A COPY OF THE INFORMATION?
16. **[Summarize the charge]**
17. HAVE YOU DISCUSSED THE CHARGE WITH YOUR LAWYER?
18. DID YOU HAVE ENOUGH TIME TO DO SO?
19. DO YOU UNDERSTAND THE CHARGE?

20. IF YOU ADMIT THAT YOU ARE A JUVENILE DELINQUENT, YOU WILL BE SUBJECT TO THE FOLLOWING PENALTIES [*summarize maximum statutory penalties*]
21. DO YOU UNDERSTAND THESE PENALTIES?
22. [*To Lawyer*] DO YOU BELIEVE THAT [*juvenile*] UNDERSTANDS THE CHARGE AND THE PENALTIES?
23. I UNDERSTAND THAT YOU WANT TO ADMIT THAT YOU ARE A JUVENILE DELINQUENT AS THE INFORMATION CHARGES. IS THAT CORRECT?
24. MR./MS. _____ [*lawyer*], DO YOU APPROVE OF THE ADMISSION AND RECOMMEND THAT I ACCEPT IT?
25. HOW DO YOU PLEAD TO THE CHARGE IN THE INFORMATION, DO YOU ADMIT OR DENY THAT YOU HAVE COMMITTED AN ACT OF JUVENILE DELINQUENCY?
26. HAVE YOU ADMITTED THE CHARGES CONTAINED IN THE INFORMATION BECAUSE YOU ACTUALLY DID THOSE THINGS CHARGED?
27. [*To Lawyer*] ARE YOU SATISFIED THAT _____ [*juvenile*] HAS ADMITTED THE CHARGED CONDUCT BECAUSE HE/SHE ACTUALLY DID THOSE THINGS?
28. DO YOU UNDERSTAND THAT YOU HAVE THE RIGHT TO DENY THE CHARGE AND HAVE A TRIAL?

29. YOU HAVE THE RIGHT TO A TRIAL BEFORE A JUDGE, THE RIGHT TO THE ASSISTANCE OF YOUR LAWYER AT SUCH A TRIAL AND, IF YOU CANNOT AFFORD A LAWYER, YOU HAVE THE RIGHT TO HAVE A LAWYER APPOINTED FOR YOU AT GOVERNMENT EXPENSE. DO YOU UNDERSTAND?
30. AT A TRIAL, YOU WOULD NOT HAVE TO PROVE THAT YOU ARE INNOCENT. YOU WOULD BE PRESUMED INNOCENT. THE GOVERNMENT WOULD HAVE TO PROVE BEYOND A REASONABLE DOUBT THAT YOU COMMITTED THE CRIME CHARGED AND THAT YOU COMMITTED IT BEFORE YOU WERE 18. DO YOU UNDERSTAND?
31. AT A TRIAL THE GOVERNMENT'S WITNESSES WOULD HAVE TO COME INTO OPEN COURT AND TESTIFY IN FRONT OF YOU AND YOUR LAWYER. YOUR LAWYER WOULD HAVE THE OPPORTUNITY TO CROSS-EXAMINE ANY GOVERNMENT WITNESSES, OBJECT TO EVIDENCE THE GOVERNMENT OFFERED, TO OFFER EVIDENCE IN YOUR BEHALF, AND TO COMPEL WITNESSES TO COME TO COURT. DO YOU UNDERSTAND?
32. AT A TRIAL YOU WOULD HAVE THE RIGHT TO TESTIFY IF YOU WANTED TO, BUT YOU WOULD ALSO HAVE THE RIGHT NOT TO TESTIFY AND YOU COULD NOT BE REQUIRED TO TESTIFY AT A TRIAL. IF YOU CHOSE NOT TO TESTIFY, THE JUDGE WOULD DRAW NO INFERENCE OR SUGGESTION OF GUILT FROM THE FACT THAT YOU DID NOT TESTIFY. DO YOU UNDERSTAND?
33. IF I ACCEPT YOUR ADMISSION, YOU WILL HAVE GIVEN UP YOUR RIGHT TO A TRIAL AND THE OTHER RIGHTS I HAVE JUST DESCRIBED TO YOU AND THERE WILL BE NO TRIAL OF ANY KIND ON THIS INFORMATION. DO YOU UNDERSTAND?

34. I WILL PROCEED TO ENTER A JUDGMENT AND SENTENCE YOU ON THE BASIS OF YOUR ADMISSION AND IF ALL OF THAT HAPPENS, YOU WILL HAVE VIRTUALLY NO RIGHT OF APPEAL FROM THE DECISION THAT YOU ARE A JUVENILE DELINQUENT. DO YOU UNDERSTAND?
35. BY ADMITTING THE CHARGE, YOU ALSO GIVE UP YOUR RIGHT NOT TO INCRIMINATE YOURSELF, AT LEAST TO THE EXTENT OF THE QUESTIONS I ASK YOU TODAY ABOUT YOUR CONDUCT THAT GAVE RISE TO THIS CHARGE. YOU MUST ANSWER MY QUESTIONS TRUTHFULLY, AND I WILL TAKE YOUR ANSWERS AS TRUE AND ACT ACCORDINGLY. DO YOU UNDERSTAND?
36. ARE YOU AWARE THAT BY ADMITTING YOU ARE A JUVENILE DELINQUENT, YOU WILL ALSO LOSE YOUR RIGHT TO CHOOSE TO PROCEED IN COURT AS AN ADULT WITH THE RIGHT TO AN INDICTMENT BY A GRAND JURY AND A RIGHT TO TRIAL BY A JURY?
37. IN LIGHT OF ALL THAT I HAVE JUST EXPLAINED TO YOU, DO YOU STILL CHOOSE TO ADMIT THAT YOU HAVE COMMITTED AN ACT OF JUVENILE DELINQUENCY?
38. **[To U.S. Attorney]** MR./MS. _____, PLEASE INFORM ME WHAT EVIDENCE THE GOVERNMENT WOULD PRODUCE IF THIS MATTER SHOULD GO TO TRIAL.

[Listen to entire recital of evidence or, in the alternative, admit written prosecution version and do inquiry]

39. **[To Lawyer]** MR./MS._____, ARE YOU SATISFIED THAT THE GOVERNMENT CAN IN FACT PRODUCE THE EVIDENCE JUST INDICATED BY THE UNITED STATES ATTORNEY?

ARE YOU SATISFIED THAT THE ADMISSIBLE PART OF THAT EVIDENCE WOULD PERMIT A JUDGE TO DETERMINE BEYOND A REASONABLE DOUBT THAT THE JUVENILE COMMITTED THE CONDUCT CHARGED AND IS A JUVENILE DELINQUENT?

40. **[To Juvenile]** HAVE YOU HEARD THE PROSECUTOR DESCRIBE THE EVIDENCE HE/SHE WOULD PRODUCE IF THIS MATTER SHOULD PROCEED TO TRIAL?

41. IS THERE ANY RESPECT IN WHICH YOU DISAGREE WITH WHAT HE/SHE HAS SAID?

42. IS THE INFORMATION TRUE TO YOUR OWN PERSONAL KNOWLEDGE?

[If not satisfied with the status of the factual basis of the plea, inquire of the juvenile as to the essential details of the crimes to which a plea is entered]

[FINDING OF A FACTUAL BASIS FOR THE ADMISSION]

43. HAS ANYONE THREATENED YOU OR HAS ANYONE TRIED TO FORCE YOU OR GET YOU IN ANY WAY TO ADMIT THAT YOU ARE A JUVENILE DELINQUENT?

44. DO YOU HAVE ANY PLEA AGREEMENT, WRITTEN OR VERBAL, WITH THE PROSECUTION OR ANY AGREEMENT ABOUT THE SENTENCE OR ABOUT OTHER CHARGES? **[IF NO AGREEMENT, GO TO QUESTION #47]**

45. IN EXAMINING THE WRITTEN PLEA AGREEMENT:
- (A) IS THAT YOUR SIGNATURE ON PAGE ____?
 - (B) DID YOU SIGN IT VOLUNTARILY?
 - (C) DID YOU READ IT BEFORE YOU SIGNED IT?
 - (D) DID YOU UNDERSTAND EVERYTHING IN IT BEFORE YOU SIGNED IT?
 - (E) IN SIGNING IT, DID YOU INTEND TO AGREE TO ALL ITS TERMS AND CONDITIONS?

IF WAIVER OF RIGHT TO APPEAL OR § 2255, OR IF FORFEITURE PROVISION, EXAMINE ON THOSE PARTICULAR ASPECTS. FOR EXAMPLE,

“ORDINARILY YOU WOULD HAVE THE RIGHT TO APPEAL THE SENTENCE OR THE SENTENCING PROCEDURES OR ANY ERROR THAT I MIGHT MAKE IN THESE PROCEEDINGS BY TAKING YOUR CASE TO A HIGHER COURT, BUT YOU ARE AGREEING HERE NOT TO TAKE ANY SUCH APPEAL TO A HIGHER COURT.

IN OTHER WORDS, I AM THE LAST JUDGE IN YOUR CASE AND YOU ARE AGREEING THAT YOU WILL NOT BE ABLE TO OVERTURN WHAT I DO. DO YOU UNDERSTAND?”

46. (A) **[If a *NONBINDING* agreement]** DO YOU UNDERSTAND THAT SO FAR AS SENTENCING IS CONCERNED, THIS AGREEMENT PERMITS YOU, YOUR LAWYER AND THE PROSECUTOR TO MAKE RECOMMENDATIONS ON SENTENCING, BUT THAT THE AUTHORITY TO DETERMINE THE APPROPRIATE SENTENCE IN THIS CASE RESTS WITH ME AS THE JUDGE IN THIS COURT, AND IF I DO NOT ACCEPT THOSE RECOMMENDATIONS, YOU WILL HAVE NO RIGHT TO WITHDRAW YOUR ADMISSION?
- (B) **[If a *BINDING* agreement, detail the specific agreement re dismissal of counts (A) or sentence limitations (C) and inform the delinquent that if**

the judge does not ultimately accept those provisions, he/she will have the opportunity to withdraw the admission.]

47. THERE ARE ADVISORY SENTENCING COMMISSION GUIDELINES. HAVE YOU AND YOUR LAWYER TALKED ABOUT HOW THE GUIDELINES MAY AFFECT YOUR SENTENCE?

I CAN'T DETERMINE WHAT MAXIMUM SENTENCE THE ADVISORY GUIDELINES PRODUCE¹ UNTIL AFTER I READ A PRESENTENCE REPORT THE PROBATION OFFICE WILL PREPARE, AND UNTIL I HAVE GIVEN YOUR LAWYER AND THE PROSECUTOR AN OPPORTUNITY TO CHALLENGE THE FACTS THE PROBATION OFFICE REPORTS. DO YOU UNDERSTAND?

48. YOU AND THE GOVERNMENT WILL HAVE THE RIGHT TO APPEAL ANY SENTENCE THAT I IMPOSE. **[UNLESS AGREEMENT LIMITS]**

49. ASIDE FROM THE WRITTEN PLEA AGREEMENT, HAS ANYONE MADE ANY PROMISE TO YOU IN AN EFFORT TO GET YOU TO ADMIT THE CHARGE IN THE INFORMATION?

50. HAS ANYONE MADE ANY PROMISE TO YOU AS TO WHAT KIND OF SENTENCE I WILL IMPOSE?

51. HAS ANYONE MADE ANY PROMISE TO YOU AS TO WHAT THE PROSECUTOR'S SENTENCING RECOMMENDATION WILL BE?

¹ See United States v. R.L.C., 503 U.S. 291, 307 (1992) ("a sentencing court's concern with the Guidelines goes solely to the upper limit of the proper Guideline range as setting the maximum term for which a juvenile may be committed to official detention, absent circumstances that would warrant departure under § 3553(b)").

52. I ASK YOU FINALLY, THEN, DO YOU STILL WISH TO ADMIT THE ACT OF JUVENILE DELINQUENCY CHARGED IN THE INFORMATION?
53. **[To Lawyer]** DO YOU, AS _____'S LAWYER, STILL RECOMMEND THAT I ACCEPT THE ADMISSION?
54. **[To Juvenile]** MR./MS. _____, I HAVE OBSERVED YOU, YOUR DEMEANOR AND ATTITUDE THROUGHOUT THESE PROCEEDINGS AND I FIND THAT YOU ARE NOT UNDER THE INFLUENCE OF ANY SUBSTANCE THAT MIGHT AFFECT YOUR JUDGMENT. YOU ACKNOWLEDGE THAT YOU COMMITTED THE CONDUCT CHARGED IN THE INFORMATION BEFORE AGE 18. I FIND THAT YOU KNOW OF YOUR RIGHT TO A TRIAL AND THE RIGHTS ASSOCIATED WITH THE RIGHT TO A TRIAL. I FURTHER FIND THAT YOU KNOW THE MAXIMUM POSSIBLE PUNISHMENT THAT MAY BE IMPOSED. I FIND THAT YOU HAVE NOT BEEN COERCED BUT THAT YOU HAVE VOLUNTARILY AND KNOWINGLY MADE THIS ADMISSION, I THEREFORE NOW ACCEPT YOUR ADMISSION.
55. I ADJUDGE THAT _____ **[juvenile]** IS A JUVENILE DELINQUENT.
56. I RESERVE DECISION ON ACCEPTING THE PLEA AGREEMENT UNTIL I HAVE REVIEWED THE PRESENTENCE REPORT.
57. I HEREBY **ORDER** PREPARATION OF A PRESENTENCE REPORT.

[Counsel to arrange]

N.B. Must schedule and hold a disposition hearing within 20 court days, 18 U.S.C. § 5037(a), unless court orders further study (e).

58. ***[Resolve detention status; direct delinquent to check with Probation re beginning presentence investigation; and to check with Marshal for processing if not already done]***
59. ***[Distribute written notice of right to confidentiality]***

(7/25/07)